

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MERRILL LYNCH BUSINESS FINANCIAL
SERVICES INC.,

Plaintiff,

-against-

ARTHUR KUPPERMAN; E. ROSS BROWNE;
PAULETTE KRELMAN; PGB
INTERNATIONAL, LLC; and J.P. MORGAN
CHASE BANK, NATIONAL ASSOCIATION,

Defendants.

Case No. 06-Civ-4802 (DMC)

NOTICE OF MOTION

TO: A. Michael Covino, Esq.
BUDD LARNER P.C.
150 John F. Kennedy Parkway
Short Hills, New Jersey 07078
Attorneys for Defendant
Arthur Kupperman

Paul H. Schafhauser, Esq.
HERRICK FEINSTEIN, LLP
One Gateway Center, 22nd Floor
Newark, New Jersey 07102
Attorneys for Defendant/ Cross-Claim Plaintiff/ Counter-Claim Plaintiff
J.P. Morgan Chase Bank, N.A.

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, the Verified Complaint, the attached Answer of Arthur Kupperman (annexed as Exhibit B), and all the papers and proceedings heretofore had herein, the undersigned attorneys for plaintiff Merrill Lynch Business Financial Services Inc. ("MLBFS") will apply before the Honorable Judge Dennis M. Cavanaugh of the District of New Jersey at the Post Office and Courthouse Building, 50 Walnut Street, Newark, New Jersey, in Courtroom 4, on October 30, 2009, at 2:30 p.m., or as

soon thereafter as counsel can be heard, for an Order pursuant to Federal Rule of Civil Procedure 56 granting Summary Judgment in favor of MLBFS and against Arthur Kupperman on the second count of the Verified Complaint, which alleges that Arthur Kupperman engaged in fraudulent conduct resulting in damages to MLBFS for which Arthur Kupperman is liable to MLBFS. In support of this motion, MLBFS relies upon the Verified Complaint of MLBFS filed on October 5, 2006 (docket entry #1 in this matter), the Rule 56.1 Statement of Uncontested Facts filed contemporaneously herewith, the Memorandum of Law filed contemporaneously herewith, as well as the following:

1. the Declaration of Arthur Kupperman dated October 23, 2006, attached as Exhibit 1;
2. the Declaration of Paulette Krelman dated September 29, 2006, with exhibits, attached as Exhibit 2;
3. the Declaration of E. Ross Browne dated June 4, 2009, with exhibits, attached as Exhibit 3;
4. the Declaration of Alison Browne dated July 4, 2009, with exhibits, attached as Exhibit 4;
5. the Declaration of Colin Browne dated July 18, 2009, with exhibits, attached as Exhibit 5;
6. the Declaration of E. Ross Browne III dated July 2, 2009, with exhibits, attached as Exhibit 6;

7. the Declaration of Cathy Brennan dated July 22, 2009, with exhibits, attached as Exhibit 7;

8. the Affidavit of Wayne Tessler dated January 9, 2009, with exhibits, attached as Exhibit 8;

9. the Certification of Ben H. Becker dated September 29, 2006, with exhibits, attached as Exhibit 9;

10. the Declaration of Catherine L. Briick dated September 30, 2009, with exhibits, attached as Exhibit 10;

11. the Declaration of Aaron Vagelatos dated September 29, 2009, with exhibits, attached as Exhibit 11;

12. the Declaration of Kimberly Fedorski dated September 29, 2009, with exhibits, attached as Exhibit 12;

13. the Declaration of Daniel Spencer dated September 29, 2009, with exhibits, attached as Exhibit 13; and

14. the Declaration of Michael J. Goettig, Esq. dated September 30, 2009, with exhibits, attached as Exhibit 14.

Dated: New York, New York
September 30, 2009

VEDDER PRICE P.C.

By: s/ Randall M. Lending
Randall M. Lending
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